

Animal and Plant Health Inspection Service, USDA

§ 356.2

this part for purposes of any investigation, litigation, or other proceeding under the Act or this part.

(c) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR part 17 or part 23 shall, upon presentation of credentials by an inspector or duly authorized representatives of the Secretary; during ordinary business hours of the person given notice, afford such inspector access to the person's place of business, the opportunity to examine the person's inventory of plants and the records required to be kept under paragraph (a) of this section, and the opportunity to copy such records. The use of a room, table, or other facilities (other than reproduction equipment) necessary for examination and copying of records and for such examination of inventory shall be afforded such inspector.

(d) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR part 17 or part 23, upon written request by the Deputy Administrator, shall submit within 60 days of such request, a report concerning any of the information required to be maintained under paragraphs (a) and (b) of this section.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

PART 356—FORFEITURE PROCEDURES

Sec.

356.1 Property subject to forfeiture procedures.

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356.3 Property valued at greater than \$10,000; notice of seizure and civil action to obtain forfeiture.

356.4 Property valued at \$10,000 or less; notice of seizure and administrative action to obtain forfeiture.

356.5 Bonded release.

356.6 Storage of property.

356.7 Petition for remission or mitigation of forfeiture.

356.8 Return procedure.

356.9 Filing of documents.

AUTHORITY: Sec. 11(f) as amended, 87 Stat. 897(f) as amended (16 U.S.C. 1540(f)); sec. 5, 95 Stat. 1076 (16 U.S.C. 3374); 7 CFR 2.22, 2.80, 371.2(c).

SOURCE: 49 FR 42916, Oct. 25, 1984, unless otherwise noted.

§ 356.1 Property subject to forfeiture procedures.

This part sets forth procedures relating to the forfeiture of any plant, equipment, means of conveyance or other property¹ seized under the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 *et seq.*) or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 *et seq.*),² in possession (actual or constructive) of the United States Department of Agriculture, and subject to forfeiture under these Acts because of activities pertaining to the importation, exportation, or reexportation of terrestrial plants.

[49 FR 46336, Nov. 26, 1984]

§ 356.2 Appraisalment.

Promptly following the seizure or other receipt of property specified in § 356.1, the Deputy Administrator shall determine the retail value of such

¹Under section 11(e)(4) of the Endangered Species Act ("Act"; 16 U.S.C. 1540(e)(4)) any such equipment and means of conveyance would be subject to forfeiture upon conviction of a criminal violation pursuant to section 11(b)(1) of the Act (16 U.S.C. 1540(b)(1)); however, such a plant may be subject to forfeiture regardless of whether a criminal conviction is obtained.

²Under section 5(a)(2) of the Lacey Act Amendments of 1981 (16 U.S.C. 3374(a)(2)) USDA has authority to initiate forfeiture proceedings against all vessels, vehicles, aircraft, and other equipment used to aid in the importation or exportation of plants in a criminal violation of the Lacey Act Amendments of 1981 for which a felony conviction has been obtained if (a) the owner of such vessel, vehicle, aircraft, or equipment was at the time of the alleged illegal act a consenting part or privy thereto or in the exercise of due care should have known that such vessel, vehicle, aircraft, or equipment would be used in a criminal violation of the Lacey Act Amendments of 1981, and (b) the violation involved the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase plants. However, under section 5(a)(1) of the Lacey Act Amendments of 1981 (16 U.S.C. 3374(a)(1)) plants seized for violations of the Amendments are subject to forfeiture regardless of whether a civil penalty assessment or criminal conviction is obtained.